



DEPARTMENT OF PERSONNEL
ADMINISTRATIVE REGULATION NO. 120 (B)
DRUG & ALCOHOL TESTING PROGRAM
(NON-DOT)

Revised & Reissued: October 1, 2021

TABLE OF PROVISIONS	PAGE
I. Purpose	2
II. Policy	2
III. Drug-Free Workplace	2
IV. Employee Assistance Program	2
V. Definitions	2
VI. Prohibited Alcohol Use	8
VII. Prohibited Drug Use	8
VIII. Knowledge/Disclosure of Drug and Alcohol Use	9
IX. Drug and Alcohol Testing Circumstances.....	10
A. Pre-Employment/Promotional or Return from Seasonal Leave or Lay Off Testing.....	10
B. Reasonable Suspicion Testing	10
C. Random Testing	11
D. Return-to-Duty Testing	11
E. Follow-Up Testing	11
F. Aviation Division (Police Division) Testing	12
G. Critical Incident Testing.....	12
X. Test Referral Procedure for Reasonable Suspicion and Critical Incident Testing	12
XI. Sample Collection and Retesting	13
XII. Test Results and Consequences.....	14
XIII. Documentation	17
XIV. Unscheduled and Agency-Specific Testing.....	18
XV. Prescription Drugs	18
XVI. Requirements for Agencies Receiving Federal Funds.....	18
XVII. Confidentiality	19

I. PURPOSE:

The purpose of this regulation is to prevent the illegal and/or inappropriate use of drugs and alcohol within the City's workforce. The ultimate goal is to prevent or reduce the accidents, injuries, serious health effects and human suffering that often result from drug and/or alcohol abuse or misuse.

II. POLICY:

It is the City's policy not to hire or continue to employ individuals who unlawfully or inappropriately use, manufacture, dispense, sell, possess, or distribute drugs and/or alcohol. Employees who test positive for drugs, other than a first positive drug test for marijuana or the marijuana metabolite, will be considered guilty of misconduct and must be set for a pre-termination review and dismissed. Employees who have a first positive alcohol test or first positive drug test for marijuana or the marijuana metabolite will be considered guilty of misconduct and will either be directed to mandatory treatment and/or subject to discipline up to and including dismissal.

III. DRUG-FREE WORKPLACE:

Any City employee who is convicted of a criminal drug offense that takes place while either on or off duty, whether engaged in City business or not, is hereby required to report the conviction to their appointing authority within five (5) calendar days of the conviction. Any employee who fails to comply with this requirement or with any other provision of this regulation will be subject to disciplinary action up to and including dismissal.

IV. EMPLOYEE ASSISTANCE PROGRAM:

City employees who are experiencing problems with drugs and/or alcohol are encouraged to contact the Employee Assistance Program (EAP) for confidential, professional assistance. The EAP can be reached by calling the telephone number provided on the attached "Certification and Declaration" form, or by calling the Employee Relations Section of the Department of Personnel at (314) 622-3563. All calls will be handled in a confidential manner.

V. DEFINITIONS:

For purposes of this regulation, the following terms and definitions shall apply:

- A. "Adulterated Specimen"** means a urine specimen that has been altered, as evidenced by either a temperature out of range or test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
- B. "Alcohol"** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

- C. “Armed Employee”** means an employee who is required to carry a weapon as a function of their job duties and includes the following job classifications: Airport Police Officer; Airport Police Sergeant; Airport Police Lieutenant; Airport Police Captain; Deputy Airport Police Chief; Airport Police Chief; Correctional Officer I; Correctional Officer II, Deputy Marshal; Supervising Deputy Marshal; Park Ranger; Park Ranger Supervisor; Liquor Control Officer; Liquor Control Supervisor; Police Officer (Trainee); Police Probationary Officer; Police Officer; Police Sergeant; Police Lieutenant; Police Captain; Police Major; Police Lieutenant Colonel; Police Assistant Chief; Police Commissioner; Security Officer.
- D. “Compliance”** means submitting to drug and alcohol testing when required to do so, accepting a mandatory referral to the EAP following a first positive alcohol test or first positive drug test for marijuana or the marijuana metabolite or voluntary disclosure of a drug and/or alcohol problem, and following all requirements prescribed by the Substance Abuse Professional (SAP) regarding the treatment plan and follow-up testing.
- E. “Confirmatory Drug Test”** means a second analytical procedure performed on a separate aliquot of a specimen to identify and quantify the presence of a specific drug or drug metabolite.
- F. “Controlled Substance”** means those substances controlled by federal or state law, for which the unauthorized possession, sale, manufacture, distribution, dispensation or use is illegal. This does not include alcohol.
- G. “Conviction”** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility for determining violations of federal or state criminal drug statutes.
- H. “Criminal Drug Statute”** means a federal, state, or local criminal statute prohibiting the unauthorized possession, sale, manufacture, dispensation, distribution, or use of a controlled substance.
- I. “Designated Employee Representative”** (DER) is also known as the “Drug and Alcohol Program Administrator” (DAPA). This refers to the employee designated by the Director of Personnel to administer the City's drug and alcohol testing program, and to act as liaison between the medical and/or EAP service providers and the various City operating departments on program-related matters.
- J. “Dilute Specimen”** means a urine specimen with creatinine concentration and specific gravity values that are lower than expected for human urine.

- K. “Directly Observed Drug Screen”** means a urine collection requiring the employee (donor) to be directly observed by an authorized collection agency employee of the same gender as the donor.
- L. “Drug”** means any controlled substance, including but not limited to, substances controlled by federal or state law, for which the unauthorized possession, sale, manufacture, distribution, dispensation or use is illegal.
- M. “Employee Assistance Program” (EAP)** means the BJC EAP, which provides assessment, treatment and/or referrals in connection with employees who voluntarily disclose a problem with drugs or alcohol or who are referred following a first positive alcohol test or a first positive drug test for marijuana or the marijuana metabolite.
- N. “First Positive Alcohol Test”** means a positive alcohol test, as defined below, which is not within 2 years (24 months) of a previous positive alcohol test or positive drug test for marijuana or the marijuana metabolite under this or any prior regulation, or Special Order or Police Manual provision prohibiting the illegal and/or inappropriate use of drugs and alcohol.
- O. “First Positive Drug Test for marijuana or the marijuana metabolite”** means a positive drug test, as defined below, for marijuana or the marijuana metabolite which is not within 2 years (24 months) of a previous positive alcohol test or previous positive drug test under this or any prior regulation, or Special Order of Police Manual provisions prohibiting the illegal and/or inappropriate use of drugs and alcohol.
- P. “Follow-Up Test”** means a drug and/or alcohol test authorized on an unscheduled basis by the DAPA consistent with the written instructions of the Substance Abuse Professional (SAP) for an employee who was given a Mandatory Referral to the EAP because of a voluntary disclosure of a substance abuse problem or following a first positive alcohol test or first positive drug test for marijuana or the marijuana metabolite. Drug testing under these circumstances shall be performed under direct observation by an employee of the collection agency. If the test requires a urine collection, the test shall be observed by an authorized employee of the collection agency who is of the same gender as the donor.
- Q. “Initial Drug Test”** also known as a “Screening Drug Test” is the first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
- R. “Initial Specimen Validity Test”** means the first analysis used to determine if a specimen is invalid, adulterated, or (for a urine specimen) diluted or substituted.

- S. “Invalid Drug Test”** means the result reported by a HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated or substituted result cannot be established for a specific drug or specimen validity test.
- T. “Medical Review Officer” (MRO)** means a licensed physician who reviews, verifies, and reports a specimen test result and evaluates medical explanations for certain drug test results.
- U. “Negative Result”** means the result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug and/or drug metabolite or the concentration of the drug or drug metabolite is less than the cutoff for that drug or drug class and the specimen is a valid specimen.
- V. “Non-negative Specimen”** means a urine specimen that is reported as adulterated, substituted, positive (for drug(s), or drug metabolite(s)) and/or invalid.
- W. “Oral Fluid Specimen”** means a specimen collected from the donor’s oral cavity and is a combination of physiological fluids produced primarily by the salivary glands.
- X. “Positive Alcohol Test”** means a confirmation test with a result of 0.04 or greater. A positive alcohol test is considered misconduct at work and subjects the employee to mandatory treatment and/or disciplinary action up to and including dismissal from employment.
- Y. “Positive Drug Test”** means a result reported by the HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.
- Z. “Pre-Employment/Promotional or Return from Leave of Absence or Seasonal Leave or Lay Off Test”** means a drug test required for job classes designated for testing before an eligible candidate assumes employment as a new hire for City service, before a current City employee assumes a promotional position, or an employee who has been on a leave of absence which exceeds thirty (30) calendar days returns to duty or before a Career Seasonal or Limited Term employee or an employee laid off from a permanent position can return to duty following a seasonal leave or lay off of a minimum of thirty (30) calendar days. This requirement also covers time spent on leave under a Mandatory Referral for substance abuse treatment and leaves of absence without pay or benefits. This requirement does not include absences due to the use of Family and Medical Leave (FML), vacation or compensatory time.

AA. “Public Safety Position” means any position in the public safety classes listed below, or as may be amended by the Director of Personnel:

Airport: Airport Police Officer; Airport Police Sergeant; Airport Police Lieutenant; Airport Police Captain; Deputy Airport Police Chief; Airport Police Chief

Board of Public Service: Fleet Maintenance Technician I, II, and III (non-CDL); Fleet Maintenance Foreman I and II (non-CDL); Fleet Maintenance Manager (non-CDL)

Corrections: Correctional Case Worker; Correctional Classification Assistant; Correctional Investigator; Correctional Officer I; Correctional Officer II; Correctional Program Supervisor; Correctional Shift Supervisor; Correctional Unit Manager; Correctional Chief of Security; Correctional Program Manager; Detention Center Superintendent; Correctional Center Superintendent; Commissioner of Corrections; Correctional Training Officer; Correctional Training Coordinator

EMS: EMS Dispatcher; EMS Lead Dispatcher; EMS Communications Supervisor; EMS Inventory Supervisor; EMS Training Specialist; EMT (Emergency Medical Technician); Paramedic; Paramedic Crew Chief; Paramedic Supervisor; Chief Paramedic, Deputy Chief Paramedic

Excise Division: Commissioner of Excise, Liquor Control Officer; Liquor Control Supervisor

Fire: Probationary Fire Equipment Dispatcher; Fire Equipment Dispatcher; Senior Fire Equipment Dispatcher; Fire Alarm Manager; Probationary Fire Private; Fire Private; Fire Captain; Battalion Fire Chief; Deputy Fire Chief; Assistant Fire Chief; Fire Commissioner

Police: CODIS Administrator; Communications Service Center Specialist I; Communications Service Specialist II; Communications Service Center Supervisor; Communications Service Center Manager; Criminalist I; Criminalist II; Criminalist Supervisor; Deputy Marshal; Supervising Deputy Marshal; DNA Technical Leader; Laboratory Manager; Laboratory Supervisor; Laboratory Technician; Park Ranger; Park Ranger Supervisor; Police Dispatcher I; Police Dispatcher II; Police Dispatch Supervisor; Police Dispatch Manager; Police Officer (Trainee); Police Probationary Officer; Police Officer; Police Sergeant; Police Lieutenant; Police Major; Police Lieutenant Colonel; Police Captain; Police Assistant Chief; Police Commissioner; Prisoner Processing Clerk; Prisoner Processing Supervisor; Public Safety Specialist; Security Officer

Recreation: Lifeguard; Lifeguard Supervisor

- BB. “Reconfirmed”** means the result reported for a split specimen when the second HHS-certified laboratory corroborates the original result reported for the primary specimen.
- CC. “Refusal to Test”** means failure to appear for any test after a reasonable period of time as determined by the Department of Personnel, appointing authority or their representative after being directed to do so; failure to remain at the testing site until the testing process is complete; failure to provide an adequate sample of breath for an alcohol test, or oral fluid specimen or urine for a drug screen when directed without a valid medical explanation; failure to comply with a directly observed collection when required, and failure to cooperate with any part of the testing process and/or providing an adulterated or substituted specimen. Refusal to test is considered misconduct at work and cause for dismissal.
- DD. “Rejected for Testing”** means the result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or an unrecovered correctable flaw that is not corrected.
- EE. “Return-to-Duty Test”** means drug and/or alcohol test(s) performed on an employee who is enrolled in the City’s mandatory treatment program because of voluntary disclosure of a substance problem, following a first positive alcohol test or a first positive drug test for marijuana or the marijuana metabolite. The Substance Abuse Professional assigned to the employee will communicate in writing to the City’s DAPA when an employee is ready to be tested, prior to returning to the workplace. The DAPA will authorize such testing and report the results to the appointing authority prior to the employee’s return to work. This test may be performed under direct observation.
- FF. “Split Specimen Collection”** means a collection in which two specimens are collected, concurrently or serially, and independently sealed in the presence of the donor; or a collection in which a single specimen is collected using a single collection device and is subdivided into a primary (A) specimen and a split (B) specimen, which are independently sealed in the presence of the donor.
- GG. “Substance Abuse Professional” (SAP)** means a state-licensed mental health professional (social worker, physician, psychologist, employee assistance professional, addiction counselor) certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission with clinical experience in the diagnosis and treatment of alcohol and drug related disorders.
- HH. “Substituted Specimen”** means a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that it is not consistent with normal human urine.

- II. “Testing Facility”** means an outpatient medical facility, hospital emergency room or any City work site, which can be accessed by an on-site collection service.

VI. PROHIBITED ALCOHOL USE:

- A.** No employee shall report for duty or remain on duty with an alcohol concentration of 0.04 or greater. Moreover, no employee shall consume alcohol while on duty and/or engaged in City business. This includes a prohibition on alcohol consumption during the entire work period, including but not limited to lunch and dinner breaks except as described in “D” below.
- B.** In addition, employees who occupy public safety positions and those who operate motor vehicles or heavy machinery are prohibited from:
1. Reporting to work or at any time operating a City vehicle with an alcohol concentration of 0.02 or greater;
 2. Consuming alcohol within the eight (8) hour period immediately following a vehicular accident that requires Reasonable Suspicion drug and alcohol tests, or until undergoing such tests whichever occurs first;
 3. Consuming alcohol while operating a motor vehicle or heavy machinery.
- C.** Possession of alcoholic beverages in the workplace or in a City vehicle is prohibited.
- D.** Employees who occupy the position of a commissioned officer with the Police Division and who are in an undercover position may, with the written permission of the Police Commissioner, possess and/or consume alcohol if required in the performance of their duties.

VII. PROHIBITED DRUG USE:

Employees are prohibited from using drugs during on-duty periods except when used pursuant to the instructions of a licensed medical practitioner who has advised the employee that the drug (s) will not adversely affect the employee's ability to perform safely the duties of their position. The unlawful possession, use, distribution, dispensation, manufacture or sale of controlled substances is prohibited, whether at the workplace or elsewhere.

Employees who occupy the following job classifications are not prohibited from the possession of controlled substances if required in the performance of their duties: Police Officer (Trainee); Police Probationary Officer, Police Officer, Police Sergeant, Police Lieutenant, Police Captain, Police Major, Police Lieutenant Colonel; Police Assistant Chief; Police Commissioner.

VIII. KNOWLEDGE/DISCLOSURE OF DRUG AND ALCOHOL USE:

- A. Supervisors and managers who have knowledge that an employee has used drugs or alcohol in a manner prohibited under Sections VI and VII of this regulation, or is under the influence of drugs or alcohol must refer the employee for drug and/or alcohol tests. Failure to make the referral is a violation of the City's policy on drugs and alcohol and cause for disciplinary action.
- B. Employees who voluntarily disclose a problem with drugs or alcohol to a supervisor or manager or who submit a Family and Medical Leave request for substance abuse treatment must be placed on leave and given a mandatory referral to the EAP for assessment, treatment and/or referral.

It will not be considered a voluntary disclosure if said disclosure occurs on the date an employee is notified that they will be required to submit to an alcohol and/or drug test or following the administration of said test(s). Employees must return to duty within twelve (12) weeks. Employees may return to work only after they are declared ready to do so by the EAP and test negative on a "Return to Duty" drug and/or alcohol test. After an employee has returned to duty, they will be subject to follow-up testing, and monitored for compliance with the prescribed treatment plan by the Substance Abuse Professional for at least one (1) year (or longer if so determined by the SAP).

Any employee who voluntarily discloses a substance abuse problem must be placed on forced leave as provided by Department of Personnel Administrative Regulation No. 117, pending a Mandatory Referral to the EAP and conditional placement on Family and Medical Leave if the employee is eligible. If the employee is not eligible for Family and Medical Leave they shall be permitted to use accrued medical leave or vacation leave or will be placed on an unpaid leave of absence. A request form for the forced leave will be provided to the appointing authority and must be signed and returned to the Director of Personnel or their designee for approval within seventy-two (72) hours of placing an employee on forced leave.

- C. Any department/division which issues a mandatory referral of an employee to the EAP for substance abuse assessment, treatment and/or referral must notify the DAPA with the Department of Personnel. The notification must be made within 72 hours of the mandatory referral. The department/division must also require that the employee sign a release form authorizing EAP to release all information in their record to the DAPA. This will permit the DAPA to receive needed information from the EAP regarding the prescribed treatment plan, compliance with said plan and return to duty and follow up testing. Further, the employee must be placed on leave in accordance with paragraph B above.

IX. DRUG AND ALCOHOL TESTING CIRCUMSTANCES:

Employees and applicants for employment with the City of St. Louis may be tested for drugs and/or alcohol in accordance with the provisions of this regulation. Listed below are the conditions and/or circumstances under which non-DOT tests will be required.

A. Pre-Employment/Promotional or Return from Seasonal Leave or Leave of Absence or Lay Off Testing

Candidates for positions that have been designated for testing by the Director of Personnel must be issued a Drug Evaluation Notice and referred for a pre-employment or promotional drug test. Testing of all candidates must be authorized by the DAPA or their designee. Only candidates who test negative for drugs are eligible for appointment to a City position. Promotional candidates who test positive for drugs other than a first positive drug test for marijuana or the marijuana metabolite must be scheduled for a pre-termination review and dismissed.

Employees occupying some Career Seasonal or Limited-Term positions that involve seasonal leave, employees who are returning after a leave of absence which exceeded thirty (30) calendar days or employees who are being re-employed after being laid off from positions that require drug screens will be subject to drug testing before returning to duty if the lapse in employment has exceeded thirty (30) calendar days. Such tests will be authorized in the manner described above for pre-employment candidates.

Questions about pre-employment/promotional, return from seasonal leave or re-employment after lay off drug and alcohol testing and physical exams are to be directed to the DAPA in the Employee Relations Section of the Department of Personnel at (314) 622-3563.

B. Reasonable Suspicion Testing

Employees who are believed to be under the influence of drugs and/or alcohol must be issued a Drug/Alcohol Evaluation Notice and referred for Reasonable Suspicion drug and/or alcohol tests. Referrals for reasonable suspicion drug and/or alcohol tests must be based on specific contemporaneous, describable observations related to the appearance, behavior, speech or body odor of the employee. Indicators of drug and/or alcohol use may include, but are not limited to, indications of the chronic or withdrawal effects of drug use, the smell of alcohol or drugs, an unsteady gait, swaying, staggering, slurred speech, drowsiness, bloodshot eyes, inability to answer simple questions, profuse perspiring, belligerence, uncharacteristic negligence, or other abnormal or unusual or erratic behavior which deviates from employee's normal behavior.

Only supervisors and managers who are trained to identify and/or detect the signs, symptoms and effects of drug and alcohol use may refer an employee for Reasonable Suspicion drug and/or alcohol testing. Said referral can be based on specific objective articulable facts provided by a reliable and credible source, if determined by the referring supervisor to support a reasonable suspicion of drug and/or alcohol use. Supervisors who do not have the requisite training and who suspect that an employee is under the influence of drugs and/or alcohol based on specific objective articulable facts should report such facts to a supervisor who has the required training. If the reviewing supervisor determines that the reported facts support a reasonable suspicion of drug and/or alcohol use, they should recommend referral of the employee for testing. Employees who are referred for reasonable suspicion drug and/or alcohol testing *must be transported* to and from the testing facility unless the testing is conducted at the work site.

C. Random Testing

Employees who occupy public safety positions comprise the Non-DOT Random Testing Pools (as identified in Section V(AA) of this regulation). These testing pools are separate and distinct from the DOT Random Testing Pool for the purposes of random selection, testing and reporting. The DAPA will notify the operating departments when random drug and/or alcohol tests are required and will provide the necessary signed Drug/Alcohol Evaluation Notice forms. Employees will only be tested during normally scheduled work hours, or during overtime hours, when such hours are authorized for test completion.

D. Return-to-Duty Testing

Employees who are given a mandatory referral to the EAP following a first positive alcohol test and/or a first positive drug test for marijuana or the marijuana metabolite, or who voluntarily disclose a drug and/or alcohol problem must test negative for drugs and/or below 0.02 for alcohol before returning to work. Specifically, when an employee is released to return to work by the EAP's SAP, the DAPA will notify the operating department, and provide a Drug/Alcohol Evaluation Notice. The operating department must contact the employee and issue the Drug/Alcohol Evaluation Notice for Return to Duty drug and/or alcohol tests. Only after the DAPA receives and reports negative results to the appointing authority can the employee return to their position.

E. Follow-Up Testing

Employees who return to work following release from the EAP must submit to a minimum of six (6) unannounced follow-up drug and/or alcohol tests (or more if prescribed by the SAP) during the first twelve (12) month-period immediately following the return to work, or as prescribed by the SAP. Employees must test negative for drugs and/or below 0.02 for alcohol during follow up testing or be

subject to discipline up to and including dismissal. The exact number and types of tests are prescribed by the SAP and are authorized on an unscheduled basis by the DAPA, who will issue a signed Drug/Alcohol Evaluation Notice to the operating department. The operating department will ensure that the employee complies with required testing.

F. Aviation Division (Police Division) Testing

Employees assigned as pilots in the Aviation Division of the Police Division shall be subject to more frequent testing, including scheduled testing, as may be ordered by the employer.

G. Critical Incident Testing

The Police Commissioner or the Commissioner of Corrections or their designee shall order critical incident drug and alcohol testing of armed employees of the Police Division or the Division of Corrections when:

1. An employee discharges their weapon, except at an approved range.
2. An employee is involved in an incident/accident which results in the death of or serious physical harm to an individual(s). Serious physical harm includes injuries that cause substantial risk of death, serious disfigurement or protracted loss or impairment of the function of any part of the body.

Critical incident drug and alcohol testing shall be conducted as soon as possible but no later than three (3) hours following the incident which mandates this testing, absent extraordinary circumstances.

X. TEST REFERRAL PROCEDURE FOR REASONABLE SUSPICION AND CRITICAL INCIDENT TESTING:

The procedure below is to be followed when referring employees for drug and/or alcohol tests required under Section IX (B) and (G) of this regulation. All other testing circumstances (including random tests) are authorized only by the DAPA or designee. The Drug/Alcohol Evaluation Notice form is to be used for all testing circumstances:

- A.** Fill in employee's name, social security number, and department in the space provided on the Drug/Alcohol Evaluation Notice form.
- B.** Check the boxes on the Drug/Alcohol Evaluation Notice form to indicate:
 1. That the employee is being referred for NON-DOT tests;

2. Check that the employee is being referred for “Reasonable Suspicion” or “Critical Incident” testing;
 3. Fill out the information on the reverse side of the form documenting what behaviors and other factors have been observed to constitute reasonable suspicion or what circumstances exist for critical incident testing;
 4. Whether the employee will be tested for drugs, alcohol or both.
- C.** Fill in the date that the Drug/Alcohol Evaluation Notice form is issued to the employee in the space provided.
- D.** Have the employee who is being referred for testing sign the Drug/Alcohol Evaluation Notice form in the space provided.
- E.** Make a copy of the completed Drug/Alcohol Evaluation Notice form, attach any required documentation (e.g., reason for test delay) to the form, and forward it to the DAPA.
- F.** Issue the Drug/Alcohol Evaluation Notice form to the employee and transport the employee to the testing facility. (The employee being referred must be transported to the testing facility by a supervisor who must remain at the facility during the testing process.) Testing can also be conducted by dispatching the onsite collector to any City work site or hospital emergency room.

XI. SAMPLE COLLECTION AND RETESTING:

- A.** Employees will not be directly observed when providing a urine sample except under the following circumstances:
1. A specimen has been declared invalid and there is no adequate medical explanation as determined by the MRO.
 2. The testing is being performed under Return-to-Duty or Follow-Up circumstances.
 3. The collector observes materials brought to the collection site or the employee’s conduct at the collection site that indicate an attempt to tamper with the specimen.
 4. The specimen temperature is outside the acceptable range or it is apparent that tampering with the specimen has occurred.

5. The MRO reports a negative-dilute result with a creatinine concentration greater than or equal to 2mg/dL but less than or equal to 5mg/dL and states that a second collection must take place under direct observation.
6. The test is a Return-to-Duty or Follow-Up test after a first positive alcohol test, first positive drug test for marijuana or the marijuana metabolite or a voluntary disclosure.

When a directly observed collection of a urine specimen is required in the situations listed above, the observer must be an authorized employee of the collection service of the same gender as donor. An employee who declines to allow a directly observed collection as required or permitted under the above circumstances will be declared to have committed a refusal to test.

- B.** Specimens provided by armed employees as defined in this regulation will be tested to determine the validity of the specimen and will be tested for the presence of the following drugs and/or drug metabolites: marijuana, cocaine, opiates, phencyclidine, amphetamine/methamphetamine, barbiturates, benzodiazepines, methadone and propoxyphene.
- C.** Samples collected under the City's drug testing program other than for armed employees will be tested to determine the validity of the specimen and will be tested to determine the presence of the following drugs and/or drug metabolites: marijuana, cocaine, opiates, phencyclidine, amphetamine/methamphetamine (class).

XII. TEST RESULTS AND CONSEQUENCES:

- A.** Employees who refuse to test for drugs and/or alcohol will be considered guilty of misconduct and must be scheduled for a pre-termination review and dismissed. As soon as the results are reported to the appointing authority, the employee must be relieved of duty, placed on forced leave as provided in Department of Personnel Administrative Regulation No. 117, Discipline Policy, and scheduled for a pre-termination review. A request form for the forced leave will be provided to the appointing authority or designee and must be signed and returned to the Director of Personnel or designee within seventy-two (72) hours of placing an employee on forced leave.
- B.** Employees who test positive for drugs other than a first positive drug test for marijuana or the marijuana metabolite will be considered guilty of misconduct and must be scheduled for a pre-termination review and dismissed. (See procedure set forth in paragraph A above.)

Employees who have a first positive drug test for marijuana or the marijuana metabolite will be considered guilty of misconduct and may be dismissed. If the employee is not dismissed, the employee must be placed on forced leave as provided in Department of Personnel Administrative Regulation No. 117 and referred to the Employee Assistance Program for assessment, treatment and/or referral. An employee must be placed on Family and Medical Leave (if eligible) or other leave at the time they are given a mandatory referral to the Employee Assistance Program. A request form for forced leave will be provided to the appointing authority or designee and must be signed and returned to the Director of Personnel or designee for approval within seventy-two (72) hours of placing an employee on forced leave.

- C.** Employees who have a first positive alcohol test will be considered guilty of misconduct and may be dismissed. (See procedure set forth in paragraph A above.) Employees who are not dismissed must be placed on forced leave as provided by Department of Personnel Administrative Regulation No. 117, Discipline Policy and referred to the Employee Assistance Program for assessment, treatment, and/or referral. An employee must be placed on conditional Family and Medical Leave (if eligible) at the time they are given a Mandatory Referral to the Employee Assistance Program. A request form for forced leave will be provided to the appointing authority and must be signed and returned to the Director of Personnel or designee for approval within seventy-two (72) hours of placing an employee on forced leave.
- D.** Employees who test positive for alcohol or for marijuana or the marijuana metabolite, and who have tested positive for drugs and/or alcohol within two (2) years (twenty-four (24) months) of the positive test must be placed on forced leave and scheduled for a pre-termination review (See A above). A request form for the forced leave will be provided to the appointing authority and must be signed and returned to the Director of Personnel or designee for approval within seventy-two (72) hours of placing an employee on forced leave.
- E.** Employees who undergo critical incident testing as described in Section IX(G) of this regulation, and who test positive for alcohol and/or drugs will be subject to discipline in accordance with paragraphs B and C above. Employees who refuse to submit to said testing must be scheduled for a pre-termination review and dismissed in accordance with paragraph A above.
- F.** Employees who are referred to the EAP following a first positive alcohol test or first positive drug test for marijuana or the marijuana metabolite or the voluntary disclosure of a drug and/or alcohol problem must return to work within twelve (12) weeks of the referral. Employees who test positive on Return-to-Duty drug and/or alcohol tests, or who are unable or unwilling to return to work within the twelve (12) week period must be scheduled for a pre-termination review and dismissed.

Additionally, after returning to duty, an employee will be subject to a minimum of six (6) unannounced follow-up drug and/or alcohol tests during the twelve (12) month period or as prescribed by the SAP and authorized by the DER (DAPA). The employee is also required to comply with any prescribed treatment plan following their return to duty.

- G.** Employees who drive any vehicle or operate heavy equipment while on duty or who occupy public safety positions as designated in Section V(AA) of this regulation, and who test from 0.02 to .039 for alcohol are prohibited from working for a period of twenty-four (24) hours following the test result, or until the next scheduled on-duty period, whichever is later. A request form for forced leave will be provided to the appointing authority and must be signed and returned to the Director of Personnel or designee for approval within seventy-two (72) hours of placing an employee on forced leave.

Employees who have an alcohol test ranging from 0.02 to .039 will be subject to discipline up to and including dismissal. If not dismissed, a subsequent alcohol test ranging from 0.02 to .039 within two (2) years (twenty-four (24) months) of the first alcohol test result ranging from 0.02 to .039, first positive alcohol test or first positive drug test will result in the employee being placed on forced leave, scheduled for a pre-termination review and dismissed.

- H.** Employees who test negative for alcohol should be returned to work provided a drug screen result is not pending and there are no observable indicators that the employee is under the influence of drugs or alcohol. If such indicators are observed, the reviewing supervisor or manager should discuss them with the medical personnel at the testing facility to determine whether the employee should or should not be returned to work.
- I.** Any employee who is notified by the MRO, DER (DAPA), or designee to contact the MRO must do so within twenty-four (24) hours of notification. Failure to contact the MRO within the required period will subject the employee to disciplinary action up to and including dismissal.
- J.** Candidates for employment who test positive for drugs or refuse to test will be removed from any eligible list(s) to which they are posted and will not be considered for employment until they provide documentation to the Director of Personnel or designee of successful completion of a recognized substance abuse treatment program, unless otherwise authorized by the Director of Personnel or their designee.
- K.** Current employees who test positive for drugs or alcohol (other than as otherwise provided in this regulation) or refuse to test must be scheduled for a pre-termination review and dismissed and removed from any eligible list(s) and will not be considered for re-hire until they provide documentation to the Director of

Personnel or designee of the successful completion of a recognized substance abuse treatment program.

- L.** An employee who is given Mandatory Referrals to the EAP (in lieu of dismissal) because of a first positive alcohol test, first positive drug test for marijuana or the marijuana metabolite or following the voluntary disclosure of a drug or alcohol problem, must continue to comply with the prescribed treatment plan developed by the SAP for the length of time determined by the SAP.

If at any time during the prescribed treatment period an employee is reported by the SAP to be out of compliance with the treatment plan, the employee must be scheduled for a pre-termination review and dismissed.

- M.** Any employee or candidate for employment whose drug screen results are reported as negative dilute will be required to take an immediate, unannounced retest under direct observation.
- N.** Any employee who tests positive on “Return-to-Duty” or “Follow-Up” drug and/or alcohol tests or who refuses to test will be scheduled for a pre-termination review and dismissed.
- O.** Dismissal under the provisions of this regulation must be preceded by a pre-termination review. The review should be held in accordance with the provisions of Department of Personnel Administrative Regulation No. 117.

XIII. DOCUMENTATION:

Failure to comply with this section of the regulation may result in reporting delays or delay in returning employees to work following return-to-duty drug and/or alcohol tests. Appointing authorities are encouraged to take steps to ensure that the reporting requirements below are met in a timely manner.

- A.** Appointing authorities are required to issue a copy of this regulation to all employees under their authority. Issuance of the regulation must be documented by having the employee and issuing supervisor sign the attached Certification and Declaration form. The original copy of the form must be filed with Personnel Services Section of the Department of Personnel within fifteen (15) working days of issuance. When issued to a new employee, the original copy should be attached to the New Employee Information Form. One copy should be retained by the operating department or agency, and the other given to the employee. For employees of the Police Division receipt of a copy of this regulation must be acknowledged in the PASS system of the division.
- B.** A completed copy of the Mandatory EAP Referral Notice must be filed with the DAPA within five (5) working days of issuance.

- C. The DAPA will provide the Appointing Authority of any department in which an employee tests positive for drugs or alcohol or refuses to test, written notification of test results. The Pre-termination Hearing Notice will identify the employee, as well as specifics on the drug and/or alcohol test results, and will be signed by the DAPA. The Appointing Authority must verify if the employee is dismissed, and the date of the dismissal. The notice must be completed and returned to the DAPA within fifteen (15) working days of the dismissal.

XIV. UNSCHEDULED AND AGENCY-SPECIFIC TESTING:

- A. The Director of Personnel may orally approve requests from appointing authorities and agency heads to conduct unannounced drug and alcohol tests for certain occupational groups, classes or groups of employees. All unscheduled tests under this provision must be justified by the requesting official and have the prior approval of the Director of Personnel.
- B. The Director of Personnel may authorize agency-specific random drug and alcohol testing programs that use professionally developed random selection procedures. Requests for the approval for such programs must be made in writing to the Director of Personnel and include a statement of need (which must be compelling) and the occupational classes targeted for testing.

XV. PRESCRIPTION DRUGS:

Any employee who takes prescription drugs (medication) should use them only in the manner prescribed. In addition, they should inquire about the drug's likely side effects (e.g., nausea, drowsiness, reduced reaction time, etc.). The information should be available from the prescribing physician or pharmacist who filled the prescription.

An employee who takes a prescription or non-prescription drug (medication) that could affect their ability to safely perform the duties of their position must report its use to their immediate supervisor before the start of work. This precaution is necessary to avoid unnecessary risk to the employee and/or others.

The failure of an employee to report the use of such drugs to their immediate supervisor is a violation of the City's policy on drugs and alcohol and could result in disciplinary action up to and including dismissal.

XVI. REQUIREMENTS FOR AGENCIES RECEIVING FEDERAL FUNDS:

Under the Drug-Free Workplace Act of 1988, as amended, any City agency with a federal contract of \$25,000 or more, or that receives funds through federal grants must report to the granting federal agency the name of any employee who is convicted of a criminal drug offense that takes place in the workplace.

The report must be made to the federal agency issuing the contract or grant within ten (10) calendar days after receiving notice of the conviction. Contractors and grantees who fail to report a conviction may be subject to one or more of the following sanctions:

- A. Suspension of payments under the grant;
- B. Suspension or termination of the grant; and
- C. Suspension or debarment of the grantee from grants for a maximum period of five (5) years.

City agencies that have federal contracts or grants are encouraged to contact the issuing federal agency about reporting requirements under the Drug-Free Workplace Act.

XVII. CONFIDENTIALITY:

The results from all physical examinations and laboratory tests will be kept confidential, but may be used to process necessary personnel actions, including disciplinary actions, Civil Service appeals or other litigation.

Questions regarding this regulation should be referred to the Employee Relations Section of the Department of Personnel at (314) 622-3563. For information about related training, contact the Training and Organizational Development Section at (314) 622-5763.

DEPARTMENT OF PERSONNEL

Richard R. Frank
Director of Personnel

Attachment